

CITY OF MORGAN HILL
JOINT REGULAR REDEVELOPMENT AGENCY AND
SPECIAL CITY COUNCIL MEETING
MINUTES - APRIL 25, 2001

CALL TO ORDER

Chairman/Mayor Kennedy called the regular and special meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Chang, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Chairman/Mayor Kennedy, Mr. Steve Spencer led the Pledge of Allegiance.

INTRODUCTIONS

Assistant to the City Manager Stevensen Dile introduced Shairon Williams, *Human Resources Supervisor*; and Chief of Police Schwab introduced Virginia McGreger, *Police Support Services Specialist II*, all recent hires.

CERTIFICATES OF APPRECIATION

Mayor Kennedy presented Jim Johnson, journalism instructor and Lacey Green, Live Oak High School journalism student, with Certificates of Appreciation: *Community Recognition for Traffic Safety Improvement at Condit/Main*.

PROCLAMATIONS

Mayor Kennedy presented Karen Lengsfeld with a Proclamation, declaring 2001 *United Nations International Year of the Volunteer*.

PRESENTATIONS

Julie Osborne, South Valley Refuse Disposal, announced the Glenn Family as this year's Residential Recyclers of the Year and that Anritsu, for the second year in a row, was awarded the Business of the Year. Mark Evans, President of Anritsu, accepted the award on behalf of Anritsu.

Assistant to the City Manager Eulo and Mayor Kennedy recognized the Environmental Poster Contest Winners.

PUBLIC COMMENT

Chairman/Mayor Kennedy opened the floor to public comments for items not appearing on the agenda. No comments were offered.

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Chang and seconded by Agency Member Tate, the Agency Commission unanimously (5-0) **approved** Consent Calendar Items 1 and 2 as follows:*

1. **MARCH 2001 FINANCE AND INVESTMENT REPORT**

Action: **Accepted** and **filed** report.

2. **ACQUISITION OF THE GUNDERSON PROPERTY ON WEST EDMUNDSON AVENUE (APN: 767-18-025)**

Actions: 1) **Authorized** the Executive Director to Execute an Installment Purchase Agreement and Any Other Related Documents with the Owners to Acquire the Gunderson Property Located on West Edmundson Avenue, east of Community Park (APN: 767-18-025) for \$5,500,000 and All Closing and Escrow Costs, and 2) **Appropriated** \$5,510,000 from the Redevelopment Agency's Fund Balance (Fund 317).

OTHER BUSINESS:

3. **COMMUNITY THEATER**

Business Assistance and Housing Manager Maskell presented the staff report and summarized the designs of Schemes A, B, C, and D, including cost comparisons. She indicated that based on the findings, AMS concluded in their study that all four schemes will have an annual operating deficit in the amount of \$44,700 to \$73,400.

Kurt Schindler, ELS, identified potential users of the theater (e.g., South Valley Civic Theater, South Valley Symphony, First Baptist Church, Morgan Hill Wind Symphony, Music Tree, and Dance Unlimited). He further identified the difference between the various schemes.

Robert Bailey, vice president of AMS Planning and Research, informed the City Council that Bill Blake and Sara Reddstein were also in attendance to answer questions that the Council may have, noting that these individuals worked on this project. He indicated that a summary of his charge has been provided to staff in a form of a working report. He addressed the market analysis and the pros, cons and financial aspects associated with each scheme. He spoke with 15 stakeholders and discussed the issue of who should build and operate the theater. It was the consensus of the stakeholders that the City's Parks and Recreation

Department would be the best operator for this venue. It is understood that this would not be a profit making venture and would require continuing operating funding either from the City's General Fund, fundraising activities, or an endowment. There was some question as to whether this would be an exclusive home for the theater company. It was the consensus that the theater should be a space that is made available to a wide variety of arts and other groups, with strong emphases on art education.

Bill Blake addressed the operating estimates for each of the schemes. He indicated that a full report would be forwarded to the Council, once finalized, that would contain detailed numbers and show support for them.

Agency Member Sellers expressed concern that the identified use day of 197 days for Scheme A appears to be high as productions may go to the community center. He asked if consideration was given to the fact that events would use the multi purpose room in the community center?

Mr. Blake stated that he spoke with some of the lodges and hotels in Morgan Hill that have comparable size conference rooms, including discussions with wineries. He has a sense on how much over flow they have and how busy they are during the week. The number identified was derived based on this information. As a multi-purpose room is also proposed, events may be competing. He said that he was confident with the numbers. He said that a number of the uses under the 197 days are private events, serving an element in the community, and are not events opened to the public.

Agency Member Chang noted that South Valley Theater was identified as a user of the theater. She asked what other groups could use the facility?

Mr. Blake responded that the Morgan Hill Wind Symphony, South Valley Symphony, and the Live Oak High School drama class are potential uses of the theater. He indicated that Schemes C and D would accommodate symphonies. In Scheme D, you would get much more use from the same users because you have more stage space to produce a wider variety of productions. He noted that there was also an ability to overlap uses.

Agency Member Sellers noted that between Schemes C and D, there could be a doubling of production but yet, the income went up \$5,000. He inquired as to the income from a single production? Mr. Blake responded that rents would be reasonable based on the fact that this would be a newly refurbished facility with a certain number of seats and a generous stage to rent at an affordable price.

Agency Member Tate asked if an analysis was conducted for having twice as many productions in terms of economic benefits to the City?

Mr. Bailey responded that an economic analysis was not conducted but that he is well aware of performing arts venues throughout the country, looking at the economic impacts both directly and indirectly. He stated that the average expenditure per audience member is \$23 to local businesses in addition to the purchase of a ticket. He did not perform a broad range analysis based on the turn around given to complete the report. He said that a venue of 125 - 175 use days would be a feasible number.

Vice-chairman Carr felt that there would be more use of the facility as there would be a potential for

overlapping 3-4 uses in a use day that was not taken into the economic analysis in terms of what the real return would be. This would not be reflected in the operating budget or shortfall. Therefore, this would be a potential area of bringing in additional revenue. He felt that the draw area would come from Gilroy, Hollister, San Juan Bautista and other areas, noting that these are communities that do not have small community playhouses similar to the one being proposed.

Mr. Bailey did not believe that there would be a lot of double booking but that it is an element that can be done. He indicated that technical staff was included in the operating budget and has allocated 15% of a staff person's time to this community playhouse operations and 100% of a technical supervisor's time to the community playhouse. He said that a percentage of the technical supervisor could be allocated to the community center, reducing the total operating budget. This was not included because it was not known if this was the desire or in the plan for the community center.

Agency Member Sellers recommended that the addition be of a historic context and adhere to the architectural features that make this an interesting building. He expressed concern with the impact to adjacent neighbors. He felt that the impacts associated with Schemes A and B would be more significant because of parking versus Schemes C and D.

Mr. Bailey agreed that car noise from Scheme A may be an issue during a performance or at the conclusion of a performance. Schemes C and D provide an entrance to load into the back of the area. He has heard comments that the police department is looking for a break through in case they want to drive through the plaza in an emergency. He stated that Schemes C and D have a 12-14 foot drive in addition to a five-foot strip of landscaping. Scheme A is the only scheme that has planning approved parking. Scheme B has a 24-foot wide drive that may be used for parking, noting that the planning department would not recognize this area as parking. He indicated that handicapped parking in either B, C or D would occur at a blue curb along Fifth Street. He said that there are two ways to approach the architecture of a historical building, one is using the Secretary of Interior standards (differentiate between an old building and the addition). He felt that this would be a good finished product with the character of the building fitting nicely together and that the finished product would be sympathetic to the original design as compared to one that would differentiate the designs.

Chairman Kennedy opened the floor to public comments.

Steve Spencer, Board Member of South Valley Civic Theater, stated that South Valley Civic Theater would like to do as much as they can for as long as they can in a community theater like this. It is felt that with a stable venue, South Valley Civic Theater can develop its strengths in membership and audiences. Past seasons have allowed them to draw 200 individuals. This would be positive for the downtown businesses, especially the dining businesses as it is hoped to establish agreements/partnerships for show-dinner specials. Also, proposed is to set up partnerships with local businesses to advertise in programs. He felt that a lot can be done with this theater. He stated that South Valley Civic Theater would like to expand its educational role into a summer theater-arts workshop in conjunction with the recreation division as there is a real need for educational programs.

William Leaman, Morgan Hill Access Television (MHAT), indicated that he was brought into the equation about a week ago. If MHAT was able to move some of its facility into this multi use facility, the public

access channel can be used to televise over 7,000 homes and become a part of the city. He felt that Scheme D would accommodate a 400 square foot public access control room. Also, the theater could be used for public access programs.

Richard Kaiser, newly elected president of the South Valley Civic Theater, indicated that the Civic Theater is entering its 31st year of public service. He indicated that they offer an affordable community theater with an average ticket price of \$10 for live theater. He felt that scheme A and B would limit the types of shows that could be conducted on the small stage. He recommended the construction of Scheme C or D as it would accommodate a larger stage.

Walter Von Tagen stated that the Council has to decide whether it wants a multi purpose room or a community theater. He noted that all schemes do not include a light booth. He agreed that most of the draw would come from Morgan Hill, Gilroy and Hollister. He also noted that the design did not include room for storage on the wings for sets and props. He stated his support of Scheme D.

Don Jensen, 20 East Fifth Street, applauded everyone's interest in the arts and preserving a cultural resource. He said that when the Fifth Street neighbors heard about the Church building being moved over, they were excited about the interest and the new use. He said that there were some misunderstandings and/or some givens that were inappropriately assumed such as moving the building as is. In looking at how the building fits in the lot and with the community center, he noted that it is doubling in size and square footage. It is taking on the appearance of a warehouse. He did not believe that the design has taken into account how it fits in with the neighborhood and with the entry into the downtown.

No further comments were offered.

Agency Member Sellers shared the concerns about the size of the building. He felt that buildings along Monterey Road have traditionally been larger than the buildings in the vicinity. With this understanding, he felt that the design needs to make sure that it fits with the neighborhood.

Actions: *Agency Member Sellers made a motion, seconded by Agency Member Chang, to: 1) **Select** Design D; 2) **Appropriate** the funding required to proceed with Design D, and 3) **Direct** staff to proceed with the schematic design with the understanding that there would be three other opportunities for the Council to review the project as it proceeds.*

Agency Member Chang expressed concern with the deficit indicated and inquired where the funding for the capital and operating costs would come from?

Ms. Maskell stated that it was her understanding that when the Agency considered the community center, a similar study was completed. Staff felt that the deficit would be no higher than what has been planned when the Agency adopted the plans for the community center.

Agency Member Chang stated that it was her belief that the community center would be self sustaining within two years. However, the theater was not included in the deficit figure.

Director of Business Assistance and Housing Services Toy said that the original community center numbers

were calculated revenues and expenses with the original theater and 400 seat auditorium factored into the number. He said that staff would investigate the figures previously identified.

Agency Member Sellers stated that it is understood that it is a cost that will be paid for the wonderful facility that would be built in the community that would provide cultural enrichment. He felt that \$30,000 per year borne from the General Fund is a minimal amount to pay for what the community is getting in return. He felt that the estimates were conservative and that with an ambitious program, the deficit can be reduced from the amount identified.

Chairman Kennedy expressed concerns with Schemes C and D. He agreed that this is not the design that the Agency had in mind when it started the process nor was it within the budget allocated in the amount of approximately \$1.2 million. He expressed concern that the Agency is stepping out of what it originally intended to do. He said that it is the Agency's goal to build a full auditorium. If this facility is built to the level that is being proposed in Schemes C and D, this reduces the potential for ultimately building a full scale auditorium.

Vice-chairman Carr concurred with Agency Member Sellers that rather than talking about this in terms of a deficit that it be discussed in terms of a cost the community is willing to bare. He felt that operating expenses could be lowered if events can be double booked. The Agency can also think about the economic spin off discussed by Agency Member Tate not only in performances but the benefits to the downtown merchants. He felt that this economic spin off would be far greater than what the Agency would see as a deficit. He stated that he shared the neighborhood's concern that this is looking different from what originally was thought. He said that the Agency is trying to set a direction and that the Agency would address the concerns in the design. He felt that the consultants and staff would be able to address concerns raised. Regarding the concern of a full auditorium and the opportunity of the community to one day grow to where it will need a full auditorium, he felt that this is the first logical step to get the city to the full-blown auditorium. He said that the Agency is building a base to be able to support the auditorium. He stated his support of moving forward with the motion of Scheme D.

Agency Member Tate stated that he came to the meeting convinced that Scheme C was the right scheme. However, he has listened with an open mind and to the arguments of flexibility with the various stages. He expressed concern that Schemes C and D cuts down on the open greenness/feeling of the entire community center. He stated that although he could support Scheme D, the 21 extra feet that would go to Scheme D should be looked at.

Agency Member Chang stated her support of Scheme D as the theater has to be built right. She expressed concern with the over all operating cost in the future. She asked if a community foundation could assist with operating costs in the future? She noted that the Agency has several visioning projects to complete. She asked how the Agency gets to the point of funding all of the projects if operational cost is to be an issue?

Vice-chairman Carr felt that this is a facility that would be managed and operated by the City through the Parks and Recreation Department. He felt that this might be a facility that the Agency may be able to find a user group to fill this role for the Agency under a contractual basis. This would take away a lot of the operating deficit from the Agency/City. He recommended that staff consider this option and return to the

Agency with more information about the possibilities of this suggestion.

Agency Member Chang did not believe that the Agency will be able to find the funds to support operating costs. She noted that with the visioning projects, the Agency is above its limits.

Chairman Kennedy felt that operating costs is a serious issue and that this a question of priorities. He noted that this project was not included as part of the Visioning process and that the Agency would be taking money away from other visioning projects for something that was not included in the original plans. He stated that he did not like the design of Scheme D as the appearance from Fifth Street is not consistent with the architectural theme of the building and the original intent of saving a historical structure.

Agency Member Chang noted that neither Schemes A or B would work as they are too small. She said that Scheme C and D would need to be selected if the Agency wants a theater that is doable.

Chairman Kennedy said that although Scheme D fits the needs of the theater, it does not fit the original intent of saving and restoring the building. He felt that a redesign would make the building more in keeping with its historical significance and the neighborhood's perspective.

Agency Member Sellers stated that the Agency would be proceeding to the schematic design. He said that at that time, it would be appropriate to bring up design issues. He would support amending his motion to state that the architect does what he can to reach the goal as stated by Chairman Kennedy. He recommended that the architects be given parameters to proceed, understanding the Agency's concerns.

Vote: *The motion carried 5-0 with the clarification that the identified issues are to be addressed in the ultimate schematic drawings.*

City Council Action

CONSENT CALENDAR:

Council Member Carr requested that Item #17 be removed from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **approved** consent Calendar Items 4-16 and 18 as follows:*

4. **MARCH 2001 FINANCE AND INVESTMENT REPORT**

Action: ***Accepted** and **filed** report.*

5. **BEVERAGE CONTAINER RECYCLING FUNDING - Resolution No. 5467**

Actions: *1) **Authorized** the City Manager to Request Funding, and 2) **Adopted** Resolution No. 5467 Authorizing the Submittal of a Funding Request for the Purchase of Additional Beverage Recycling Containers.*

6. **WAIVER OF POTENTIAL CONFLICT OF INTEREST WITH COUNTY OF SANTA CLARA**

Actions: 1) **Waived** Potential Conflict of Interest Between the City of Morgan Hill and the County of Santa Clara, and 2) **Authorized** the City Manager to Execute a Waiver of the Conflict of Interest.

7. **FINAL MAP ACCEPTANCE FOR COYOTE ESTATES PHASE V (TRACT 9317)**

Action: **Approved** and **Authorized** the Recordation of the Final Map.

8. **AMENDMENT TO CONTRACT PROVIDING PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS**

Actions: 1) **Approved** Amendment to the Contract with Harris & Associates to Increase the Contract Amount by \$30,000, and 2) **Authorized** the City Manager to Execute the Contract Amendment.

9. **AUTHORIZE PROFESSIONAL SERVICES CONTRACT FOR DESIGN OF EDMUNDSON RESERVOIR**

Action: **Authorized** the City Manager to Execute the City's Standard Agreement with Schaaf & Wheeler for Design and Construction Administration Services for the Edmundson Reservoir, in the Amount of \$228,000.

10. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR SEWER LIFT STATION "B" IMPROVEMENTS**

Action: **Authorized** the City Manager to Execute a Consultant Agreement for Preparation of Plans, Specifications and Estimates on Sewer Lift Station "B" Improvement Project with Freitas + Freitas Engineers.

11. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR PUBLIC IMPROVEMENT PLANS RELATED TO THE COMMUNITY CENTER PROJECT**

Action: **Approved** the Proposal from MH Engineering Co., Inc. and **Authorized** the City Manager to Execute a Consultant Agreement for Preparation of Public Improvement Plans (offsites) and Mapping Related to the Community Center Project.

12. **ACCEPTANCE OF THE POLYBUTYLENE SERVICE REPLACEMENT PROJECT, PHASE II**

Actions: 1) **Accepted** as Complete the Polybutylene Service Replacement Project, Phase II in the Final Amount of \$315,169.62, 2) **Approved** the Expenditure of \$569,62 from FY 2000-01 Polybutylene Replacement Project #615095, and 3) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.

13. **AWARD OF CONTRACT FOR POLYBUTYLENE WATER SERVICE REPLACEMENT PROJECT, PHASE III**

Action: **Awarded** Contract to Vulcan Construction and Maintenance, Inc. for the Construction of the Polybutylene Water Service Replacement Project, Phase III in the Amount of \$336,000.

14. **ACCEPTANCE OF CONSTRUCTION STREET REPAIRS 2000-01 PROJECT**

Action: 1) **Accepted** as Complete the Street Repairs 2000-01 Project in the Final Amount of \$1,312,836.70; and 2) **Directed** the City Clerk to File the Notice of Completion with the County

Recorder's Office.

15. CITY POSITION ON STATE LEGISLATION

Action: ***Directed*** Staff to prepare letters stating the City's legislative position for the Mayor's signature.

16. ACTION FOR BETTER CITIES CHECK-OFF PROGRAM - Resolution No. 5469

Action: 1) ***Directed*** Staff to Establish a Payroll Check-Off System for Elected to Support Action for Better Cities, and 2) ***Adopted*** Resolution No. 5469 Establishing a Voluntary Contribution Check-off Program.

18. SPECIAL CITY COUNCIL MEETING MINUTES OF APRIL 4, 2001

Action: ***Approved*** the Special Meeting Minutes as Written.

17. GRASSROOTS COORDINATOR NETWORK

Council Member Carr inquired as to the scope of the issues that the League of California Cities' Grassroots Coordinator Network will be looking at. He asked if there would be a possibility that they would be promoting issues that the City of Morgan Hill may not agree with? If this is the case, he inquired as to the City's recourse in an action such as this.

City Manager Tewes responded that the scope of the responsibility of the Grassroots Network would be to carry the agenda of the League of California Cities. He stated that it was his belief that the League strives to avoid situations where they take positions on statewide issues that do not have a strong support of members in cities.

Council Member Carr expressed concern with the issue of extending Bart to Santa Clara County. He felt that there could be legislation in Sacramento this year to stop this extension. If all the regions outside of Santa Clara County are opposed, he asked what positions and what lobbying efforts would the League be conducting?

City Manager Tewes stated that it was his belief that the League would not take a position on the Bart issue.

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Directed** Staff to Prepare Letter Supporting the League of California Cities' Proposed Grassroots Coordinator Network.*

OTHER BUSINESS:

20. STATUS REPORT ON SOUTH COUNTY REGIONAL WASTEWATER AUTHORITY (SCRWA) ISSUES

City Manager Tewes presented the staff report.

Mayor Kennedy announced that City of Gilroy Mayor and Chairman of SCRWA Tom Springer was in

attendance this evening.

Director of Public Works Ashcraft indicated that a SCRWA meeting was held on Tuesday, April 24 where several issues of interest to the City discussed: SCRWA budget was distributed at the meeting but that it will not be approved until June; and the flow metering was discussed and showed that for calendar year 2000 Morgan Hill's flow was 45% and that the flow for Gilroy was 55%. This means that there will be an adjustment on the current and next year's operation and maintenance split. Also, discussed was the method of billing. The SCRWA manager indicates that SCRWA would be running a trial EU method in the next several months as a means to compare flow for the two cities. The issue that received the most discussion was a request from Calpine for a will serve letter for proposed peaker electrical generation plants that have been proposed in the City of Gilroy, adjacent to Gilroy Foods.

Mayor Kennedy opened the floor to public comment.

Dennis Gellerman, Montgomery and Watson, informed the City Council that his firm conducts most of the work regarding the wastewater treatment and disposal for SCRWA. His firm was asked to look at this as it relates to impacts to the SCRWA facility for the Calpine peaker plants. Calpine is requesting water service for their cooling system and sewer disposal for the cooling water blow down. This is being looked at as a wastewater recycling and wastewater disposal point of view. He addressed the SCRWA affluent disposal strategy. He indicated that SCRWA is trying to obtain a river discharge permit for one of its strategies and that integral to this is the use of recycled water as a disposal strategy. He concluded that 3 MGD units can be served with minimal impacts and that 6 units would trigger the expansion of the recycled water system that is part of the planned expansion and is included in the capital budget.

Council Member Carr noted that the chart presented did not include any other growth within the cities.

Mr. Gellerman stated that in order to serve Calpine with recycled water, farmland would not be given their full allotment of water in order to keep it within 3 MGD. He stated that Calpine is being encouraged by the state to use recycled water.

Dan Sampson, Calpine's Western Region Water Treatment Specialist, stated that the proposed use of reclaimed water by Calpine will not affect Morgan Hill's capacity as it will come off of Gilroy's capacity in terms of the reclaimed waterplant. Regarding solidity, he stated that if the SCRWA facility remains as it is now for the next several years, the solidity increase would be per Mr. Gellerman's calculation. However, Calpine would be a constant user of reclaimed water. He stated that the City is looking at a worst case salinity at this time for the current size of the plant. If reclaimed water is not being used, the water would have to be disposed of in the normal manner. This may require the digging of additional percolation ponds. The use of recycled water would help decrease the cost associated with SCRWA as the City grows because Calpine would be using a portion of water that would have to be disposed of anyway. He indicated that the Calpine facility would be using water for cooling and emission control and combustion turbans.

Mr. Sampson stated that the total dissolved solids exiting the Calpine plant would be approximately five times the level of total dissolved solids coming into the Calpine plant. Therefore, Calpine would be receiving reclaimed water that has a TDS of 600, and that the TDS coming out of the Calpine plant would be approximately 3,000 TDS. He indicated that the high TDS water that would go back to the SCRWA

facility would be diluted with the 640 parts per million of total dissolved solids that are already coming into the plant. Therefore, there would be a small net increase. As the Calpine flow is relatively small compared to the amount of water flowing through entire facility, the decrease is per Mr. Gellerman's calculation which he believed would be relatively insignificant.

Council Member Tate stated that air quality is a severe and very serious concern of the City of Morgan Hill because of the Metcalf proposal. He inquired what would be done with this proposal in terms of looking at the environmental impacts of poor air quality and other concerns that were not considered as part of the Metcalf application (e.g., meteorological studies, etc.).

Mr. Sampson responded that he did not have the expertise to address these questions but that he could obtain answers. He stated that Calpine is following the California Energy Commission's requirements for environmental impact studies and the determination of particulates.

Council Member Carr asked if there was anything added to the water as it goes through the Calpine plant?

Mr. Sampson responded that no hazardous materials would be added to the water. The cooling tower will require the addition of a pH adjustment which would be approximately 93-98% sulfuric acid. This is a standard chemical added to adjust the pH of the cooling system. This chemical will lower the pH from a high value to something near neutral. This pH adjustment is necessary to prevent the formation of mineral scale on heat exchange surfaces. In addition, Calpine would be adding a mineral disbursement to prevent the formation of mineral scale and will also have to add halogen, and more than likely chlorine which is similar to household bleach in order to prevent microbiological growth in the cooling tower. He stated that these would be the only three chemicals anticipated to be used.

Council Member Carr inquired if the chemicals to be added would have an effect on the plant, the biological aspects of the SCRWA plant and the future ability to build wetlands as a way of discharging effluent?

Mr. Sampson responded that at the use concentration proposed, these chemicals are non hazardous. He stated that toxicity studies have been conducted in the past to verify that it is no more toxic than the water coming in and in many cases, less toxic because the pH has been adjusted. He indicated that a similar process was used at the Delta Diablo Sanitation District. He stated that this is the only facility that Calpine is using peaker plants associated with a wastewater treatment facility in conjunction with water going through wetlands. He clarified that the water usage would be much lower than a typical combined cycled power plant and the temperatures would be much lower.

Brian McDonald, Manager of Project Development for Calpine, stated that Calpine entered into a contract in mid March with the California Department of Water Resources to help the state try to mitigate the blackouts that have been experienced in California. The agreement stipulates that Calpine would be providing the state with back up power in a peaking sense for 20 years. It is proposed to install two LM 6000 gas turbines in Gilroy this summer and a build out of 11 units with 495/500 megawatts to be generated between now and summer 2002. He indicated that Calpine received notification from the California Energy Commission that they have tentatively recommended the construction of one unit in King City. He indicated that Calpine has five or six other sites being developed in the northern California area. It is being proposed to install six turbines in Gilroy in two phases with the first phase to include three turbines. He

indicated that permitting is on a fast track basis but that it is not skipping any of the CEQA review process, city ordinances or federal laws. He indicated that Calpine is currently going through a 21-day permit process through the California Emergency Commission. The second three turbines will go under a four-month project as the turbans will not meet their deadline of September 30, 2001 in order to qualify for the 21-day permit processing. He indicated that the last three units would be installed between December 2001 and April 2002. He said that Calpine is trying to work with communities and use reclaimed water. Calpine will be installing a Knox catalyst in order to minimize the emissions to the environment at the existing facility.

Council Member Tate stated that his concern on air quality was that it was a very static measurement over the entire terrain and the valley. He said that the meteorological impacts is increased air pollutants throughout the region from Metcalf. He expressed concern that these impacts be looked at. He did not believe that there is a feeling on the part of the Energy Commission or Calpine that this was relevant in the Metcalf situation.

Council Member Chang stated that SCRWA will be meeting tomorrow morning to discuss a "will serve letter." At said meeting, a recommendation will be made to staff to draft a letter stating that SCRWA has the capacity and that approval hinges on the future investigation of negotiations. She inquired whether the environmental process identified is a CEQA process?

Mr. McDonald responded that the California Energy Commission will be assuming all liability and responsibility for meeting CEQA requirements as well as all city ordinances. Calpine would be meeting all of the requirements, indicating that the application is on a fast track process. He stated that Calpine works closely with the California Energy Commission and is not bypassing the environmental review process. He indicated that 11 new peaker plants are to be constructed by the Summer 2002 which equal 495 megawatts.

Mr. Sampson presented a water flow diagram for the peaker plants. He said that the will serve letter is important because Calpine will need sewer service before the plants become operational. He indicated that Calpine does not need the reclaimed water as there is a well on site. However, it is his personal preference not to use well water when you can use water that someone else has used as it is better for the environment.

City Manager Tewes clarified that the California Energy Commission has taken responsibility for CEQA and a series of other issues. He asked if the California Energy Commission is preparing the environmental document and if it will be made available to the responsible agencies such as SCRWA?

Mr. McDonald responded that he has been told that the California Energy Commission will work with the communities and City Managers and that they would make sure that whatever Calpine is building meets local codes, regulations and requirements that might be imposed, including CEQA. The California Energy Commission will be using Calpine's application for certification. He did not know what the California Energy Commission is doing during this 21-day period but that it was his belief that they would be making sure that Calpine is in compliance. Once the Commission gives its approval, Calpine plans to commence construction immediately following the 21-day review period.

Mayor Springer stated that Calpine has applied through the City of Gilroy for SCRWA services in order to

become a customer of recycled water up to one million gallons a day for six peaker units. He stated that SCRWA has the capacity for the three peaker units. Calpine will be returning 100,000 gallons of water through the Gilroy water system that charges against the Gilroy's allocation and not against Morgan Hill's allocation. Therefore, the Gilroy's operational cost would go up while Morgan Hill's cost would go down because distribution is based on flow. Once the six units come on line, it will result in one million gallons of recycled water that SCRWA will not have to dispose of. He stated that SCRWA has been fighting for years on what it would do with recycled water in the winter months. The sell of recycled water would reduce the operational costs. He felt that the limited amount of pollutants that will come from the peaker plant units would dissipate to the south of the plant to Christopher Farms. He indicated that he has spoken to Mr. Christopher regarding what is to be involved, and stated that Mr. Christopher has no issues or concerns. He indicated that the 21-day review process is not going to be based on printed documents but would be based on electronic documents housed on the web site. The bottom line is that both cities have a customer who will generate income and will be of benefit because the higher operational volume is coming from the Gilroy resulting on the cost coming down on the Morgan Hill side. He said that legislation is to be enacted that would exempt areas within 20 miles of a new plant from black outs. He noted that Morgan Hill would be located within the 20-mile radius. Therefore, approval would be a win win situation for the entire south county area.

Mayor Kennedy inquired if there were any other benefits such as reduced power costs that the cities can reap from this approval? Mayor Springer stated that to the extent that the money from the sell of recycled water is used to offset the operational cost on the electrical side, this would result in lower costs to Morgan Hill and Gilroy. The City of Gilroy is trying to get a municipal utility district in place where it can be a retailer of the power, buying the power from a Calpine plant before it goes out on the grid. This would guarantee an uninterrupted source of power to the sewer plant. He felt that approval would result in a reduction of costs to both cities to operate the plant because it has a revenue stream. It also reduces capital costs, especially long term because SCRWA would be able to delay having to add more percolation space.

Mayor Kennedy requested Mayor Springer's help on the City's support for the Sobrato High School site. Mayor Springer stated that if the city could figure out how to minimize the traffic issues on Monterey Road and get around San Jose's opposition to the greenbelt on the Sobrato site, he felt that there may be a way to come to some accommodation.

Council Member Chang requested that negotiations with Calpine include Morgan Hill to buy energy directly from them. Mayor Springer stated that he would agree to include Morgan Hill in negotiations but that Morgan Hill would have to bear the lead on getting the power to Morgan Hill.

No further comments were offered.

Council Member Chang stated that the SCRWA representatives spoke with staff and recommended that a letter be written to state that SCRWA has the capacity for three peaker units and that it is interested in the Calpine request. However, it is subject to further negotiations and investigation. She requested Council support on proceeding with this recommendation.

Council Member Carr stated that he would support the minimal standard that Calpine needs to move

forward with their process with the stipulation that there are issues that need to be worked out between SCRWA and Calpine before services are rendered. He noted that the staff report clearly demonstrates that sufficient capacity exists for the first three peaker units and that more significant review before the additional three peaker units are considered.

Action: *It was the consensus of the City Council to **support** the recommendation of the City of Morgan Hill SCRWA Board Members.*

Mr. Ashcraft did not believe that an action is necessary on the EDUs. He stated that the information presented with the budget would stipulate that next year's split would be 45/55% based on the latest meter readings. He said that within the next few months, a trial EDU method would be utilized for comparison purposes.

Council Member Carr noted that a 45/55% split in the budget would result in a 1% savings (approximately \$50,000 for Morgan Hill).

Action: *It was the consensus of the City Council to **support** the 45%/55% split.*

Council Member Tate stated that he supports the action taken but that he did not believe that a CEQA process can be undertaken in 21 days as it is a cumbersome process. He expressed concern with the State's direction on the environmental review process.

Mayor Kennedy inquired as to the expected lifetime of the units. Mr. McDonald responded that Calpine has a 20-year contract for the peaker units.

Mayor Kennedy felt that in the long term, the cities should be looking at a larger, cleaner technology facility.

PUBLIC HEARINGS:

19. FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT - PUBLIC HEARING AND TABULATION OF BALLOTS AND DECLARATION OF BALLOT PROCEEDING - Resolution No. 5468

Council Member Chang recused herself from this item due to a conflict of interest.

Assistant Public Works Director Struve presented the staff report. He recommended that the Council open the public hearing, receive public comments, close the public hearing and then direct the City Clerk to tabulate the ballot. The City Council would then be asked to adopt a resolution and amend it as necessary, depending on the outcome of the balloting proceedings.

Mayor Kennedy opened the public hearing.

Lisa Keeling, 2765 Toro Vista Court, Jackson Meadows No. 7, stated that it was her understanding that there are ten homes that are being assessed for maintenance of landscaping that began in 1991. She felt that

the majority of the homes in the district were either repurchased and have new owners since 1998. It was her understanding that the city has offered to pay for ½ of the payment, however, she did not believe that it was fair to require homeowners to pay for property maintenance that were assessed three to four years before residents purchased their homes or homes were built. She inquired whether the city could break down the assessment for the ten homes to make it fair. The residents have noticed an extreme amount of over watering, noting that broken pipes have been neglected before anyone would come to fix them. This past winter, it took approximately three weeks before someone would remove a fallen tree. She stated that the letter received from the City indicates that there would be some consideration given to cutbacks in maintenance service if the residents do not agree to pay the assessment. She stated that should the water schedule be changed, the residents would agree to maintain the sparse landscaping. She requested that these issues be investigated by the City as the neighbors are being asked to pay a lot of money for something that they had nothing to do with and are not benefitting from at this time.

No further comments being offered, the public hearing was closed.

Deputy Director of Public Works Struve stated that there are 12 parcels with only 10 parcels being assessed in Jackson Meadows No 7. He said that he was not aware of the over watering problem at this time but that he would investigate the concern.

Action: *By consensus, the City Council **directed** staff to tabulate the ballots.*

Deputy Director of Public Works Struve reported that the three sub areas were tabulated as follows: Jackson Meadows No. 7 area had 10 parcels that received ballots, 1 ballot returned with a no vote; La Grande zone - 32 ballots mailed out, 2 ballots returned, 1 yes and 1 no; and Sandlewood zone - 11 ballots mailed out with 9 returned, all no votes. He indicated that in each of the three districts, the assessment increase is not carried and not approved.

City Manager Tewes informed the City Council that staff is preparing its annual budget recommendations to be presented mid May. Staff will provide a recommendation for these assessment districts on how they are to be maintained in accordance with law and resources available. The plan will provide the greatest possible level of service given the resources while addressing the deficit issue that has been provided by the other districts.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0-1 vote (Council Member Chang abstaining), **adopted** Resolution No. 5468, adopting the results of the tabulations as reported by staff.*

Mayor Pro Tempore Sellers noted that the City does not provide maintenance services and indicated that these services are contracted out and that the City is trying to figure out the funding process. He felt that Proposition 218 was a good idea but that its administration can be a nightmare for cities. He indicated that staff will review the assessment to make them equitable within the constraints that the city has.

Mayor Kennedy requested that staff investigate the suggestion of reducing water and allowing the homeowners to assist in maintenance.

Council Member Chang resumed her seat on the dais.

21. REVIEW PROCESS OF APPOINTMENTS TO BOARDS AND COMMISSIONS

City Manager presented the staff report.

Council Member Tate indicated that he and Council Member Carr, as the committee appointed by the City Council, conducted interviews of Library Commissioners. He stated that the committee process was extremely relaxed and that the Committee got to know the applicants. He felt that interview by committee was a positive approach. He did not believe that a subcommittee appointed by the City Council will have a problem reaching a consensus. He stated that he would like to go through this process a couple of times to test the process as he was not sure that the Council will always be accepting of the subcommittee's recommendation in terms of their knowledge of one or two of the candidates. He stated that this is a positive experience for the interviewees and that staff had several ideas on how the Council can spread applicants across different commissions.

Council Member Carr stated that the subcommittee interview process worked well. He and Council Member Tate took the time afterwards to talk openly about the interviews and that they would return with a slate of recommended appointments at the next Council meeting. He felt that the Council needs to review how the slate of appointments to be presented to the City Council from the interviewing body for adoption and whether the candidates are adopted as a slate in its entirety or whether the Council will look to vote individually on each seat. He felt that the Council will need to review the interview process after the Council has gone through the appointment process a few times. He felt that it was important that the City Council consolidate some of the boards and commissions which would afford the City Council the ability to appoint an applicant to another board or commission to fill vacancies where the applicants' expertise lie.

Mayor Pro Tempore Sellers stated that he has found the appointment process an arduous duty as a Council Member due to the formality of the process and the starkness in the finality of the appointment process. He felt that the process is formal and does not give the City Council a sense from the applicants. He felt that the committee process would make sense for most of the committees. However, for the Planning Commission and the ARB, the City Council may wish to conduct an interview process by the entire Council but that the process be less formal (e.g., workshop setting).

Mayor Kennedy recommended that staff contact cities regarding their process and identify what steps are taken when the Council does not agree with a committee recommended slate (e.g., City of Atherton). He felt that the Planning Commission is a different body and felt that a full interview should be conducted for this body as the Planning Commission deals with difficult issues and need to be able to speak and address difficult issues.

Council Member Tate stated that he would support the entire City Council interviewing Planning Commission applicants in an informal setting such as in a workshop setting.

Council Member Carr recommended that staff return with recommendations on consolidation of the interview process for some commissions and committees. He recommended that the Parks & Recreation Commission be able to consolidate its appointments to the Bicycle, Senior and Youth Advisory Committees

in order to be able to fill other vacancies.

Mayor Kennedy inquired whether the City Council should make appointments to the Bicycle, Senior and Youth Advisory committees or should the Parks and Recreation Commission continue to make these appointments?

City Manager Tewes responded that the current structure is such that the Bicycle, Senior, and Youth Advisory Committees are advisors to the Parks and Recreation Commission. Therefore, the Parks and Recreation Commission makes these appointments. He informed the City Council that staff spoke to the Parks and Recreation Commission about the idea of consolidation. The Parks and Recreation Commission was supportive of the consolidation process as they are having a hard time filling vacancies and felt that if there were qualified individuals applying for a vacancy and would fit into another vacancy, they would like to consider filling other vacancies.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *It was the consensus of the City Council to **direct** staff to return with a series of recommendation on how the consolidation of the interview process would take place. Staff was **further directed** to return with an alternative interview process for the Planning Commission.*

City Council & Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Sellers, the City Council/Agency Commission unanimously (5-0) **approved** Consent Calendar Items 22-25 as follows:*

22. JOINT SPECIAL CITY COUNCIL MEETING AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF MARCH 28, 2001

Action: ***Approved** the Joint Special Meeting Minutes as Written. (Council Member Tate abstained from voting on this item)*

23. JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF MARCH 28, 2001

Action: ***Approved** the Regular and Special Meeting Minutes as Written. (Council Member Tate abstained from voting on this item).*

24. JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF APRIL 4, 2001

Action: ***Approved** the Regular and Special Meeting Minutes as Written.*

25. JOINT SPECIAL JOINT CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF APRIL 17, 2001

Action: *Approved the Regular and Special Meeting Minutes as Written.*

CLOSED SESSIONS:

City Attorney Leichter announced the below listed closed session items. She noted that under Closed Session Item No. 5 there is a clerical error. Item No. 5 should read significant exposure to litigation pursuant to Government Code 54956.9(b)(1) pursuant to statements made at public meetings regarding the courthouse.

1.

CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) AND CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority:	Government Code 54956.8, 54956.9(b), & 54956.9(c) (1 potential case)
Real Property(ies) involved:	APN 728-31 -007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)
City Negotiators:	City Council/Agency Members; City Manager/Executive Director; City Attorney/Agency Counsel; and Special Counsel
For Property Owner:	San Jose Christian College representatives
Closed Session Topic/Under Negotiations:	Potential Litigation & Price and Terms of Payment

2.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION

Legal Authority	Government Code 54956.8
Property:	APN 817-13 -001; 37.8 acres (soccer complex)
Negotiating Parties:	
For City:	City Manager, City Attorney, Public Works Director
For Property Owners:	Tadashi & Alice A. Kadonaga, Trustee
Under Negotiation:	Price and Terms of Payment

3.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION & CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Legal Authority:	Government Code 54956.8 & 54946.9(c)
Real Property Involved:	A 8.49 acre parcel located on West Edmundson Avenue, east of Community Park (APN 767-18-025)
Negotiating Parties:	
For City/Agency:	City Manager/Executive Director; Public Works Director, Director of Business Assistance & Housing Services; City Attorney/Agency Counsel; Special Counsel
For Property Owners:	Gundersen Trust Partnership Trustee
Under Negotiation:	Price and Terms of Payment

4.

CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) & CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority:	Government Code 54956.8 & 54946.9(c)
Property:	APN 825-06-002, 003,029, 030; 36.6 acres (Railroad/Maple - Butterfield Retention Basin Site)
Negotiating Parties:	
For City:	City Manager; Public Works Director
For Property Owners:	Costa Family Partners
Closed Session Topic/Under Negotiation:	Potential Litigation & Price and Terms of Payment

5.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code section 54956.9(c) (one case)

OPPORTUNITY FOR PUBLIC COMMENT

Chairman/Mayor Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION:

Chairman/Mayor Kennedy adjourned the meeting to closed session at 9:47 p.m.

RECONVENE:

Chairman/Mayor Kennedy reconvened the meeting at 12:09 a.m.

CLOSED SESSION ANNOUNCEMENT:

Agency Counsel/City Attorney Leichter announced that no reportable action was taken on the above listed closed session items.

FUTURE AGENCY-INITIATED AGENDA ITEMS:

No items were identified.

ADJOURNMENT

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 12:10 a.m.

MINUTES RECORDED AND PREPARED BY:

Irma Torrez, City Clerk